

**Date:** May 2, 2014

**To:** Thomas J. Bonfield, City Manager  
**Through:** W. Bowman Ferguson, Deputy City Manager  
**From:** Donald F. Greeley, Director, Water Management  
**Subject:** Angier Ave. Elevated Storage Tank Engineering Design Services Contract (#4668), Amendment #4, Kimley-Horn and Associates

### **Executive Summary**

In 2008, the City selected Kimley-Horn and Associates, Inc. (KHA) to provide engineering services for the design, permitting and construction of a 3-million gallon (MG) elevated storage tank (EST). Although the construction is nearly complete, there are additional services necessary to complete the project. These additional services are for performing additional construction administration/construction inspection (CA/CI) activities which resulted from unanticipated construction issues and time extensions requested by the contractor.

The City will seek reimbursement from the Tank Contractor for claims that have not yet been resolved. The range of the amount to be reimbursed to the City for the additional fees paid is between 20% and 60% of the fees. The Department is requesting an amendment to complete KHA's contract and the project.

### **Recommendation**

The Department recommends City Council:

Authorize the City Manager to execute a contract amendment with Kimley-Horn and Associates Inc. for additional services related to the contract for additional costs not to exceed \$77,840.11.

### **Background**

In 2008, the City approved the selection of KHA to provide engineering services for the design, permitting and construction of the 3-MG EST on Angier Ave.

On June 28, 2010, Amendment No. 1 added \$146,600.00 to the Engineer's fee for design and CA/CI services for placing a new booster pump station within the Angier EST for the Southeast Pressure Zone.

On February 15, 2013, Amendment No. 2 added \$11,315.20 to the Engineer's fee for additional design services to replace the altitude valve and vault at the East Durham EST and \$86,752.14 for additional permitting services to site the Angier Ave. EST (Site Plan, Special Use Permit, DPW-Development Review, and Board of Adjustment hearings). The total fees for Amendment No. 2 were \$98,067.34.

On October 15, 2013, Amendment No. 3 authorized spending Contingency fees in the amount of \$15,000.00 for a change order request by the Engineer to cover adjustment of the 2008 labor rates, an archeological investigation for a gravestone discovered on site, and CA services related to construction extensions granted to the contractor and the tank pile foundation.

## Issues and Analysis

Although the construction is nearly complete and the EST itself is online, the contractor, Landmark Structures LLP (Landmark), did not meet specific tasks by the milestone dates in the contract. Water Management proposes an extension of up to 130 days to accommodate the KHA services related to Landmark requests and schedule conflicts.

Because of the delays and additional tasks, KHA has performed additional work beyond the originally-scheduled construction time. KHA has also performed additional shop drawing reviews and additional CI to assure constructed work conformed to the contract. Some of these costs will be recovered from Landmark in final payment.

KHA also performed CA/CI services for other work that includes the following:

- During the bid phase, bidders requested/recommended an additional 10 days be added to the construction schedule originally specified in the bid documents. Water Management accepted the bidders' request which resulted in KHA performing CA/CI work beyond the originally-scoped timeframe considered in 2008.
- During the construction phase, the City requested improvements to the remote control (SCADA) of the tank systems from the Brown and Williams water treatment plants. This was necessary due to the age of the existing telemetry at the two water treatment plants. It had been initially anticipated that the Brown and Williams upgrade/expansion project, which included SCADA improvements, would have been much further along.
- During the construction phase, the City requested modifications to the tank site piping and access ladder.

Table 1 summarizes the fees considered in this amendment. Table 1 also indicates which fees may be recovered by final payment to the contractor.

**Table 1 – Summary of Amendment No. 4 Engineering Fees**

<b>Additional Service</b>	<b>Proposed Amendment Fees</b>	<b>Potentially Reimbursable Fees</b>	<b>Current Contract Amount</b>	<b>Revised Contract Amount</b>
Construction Administration	<b>\$37,981.10</b>	<b>\$7,600 - \$21,600</b>	<b>\$79,000.00</b>	<b>\$116,981.10</b>
Construction Inspection	<b>\$39,859.01</b>	<b>\$8,800 - \$24,800</b>	<b>\$105,400.00</b>	<b>\$145,259.01</b>
<b>Subtotal</b>	<b>\$77,840.11</b>	<b>\$16,400 - \$46,400</b>		
	<b>Amendment Total</b>		<b>\$ 77,840.11</b>	
	<b>Current Contract Amount</b>		<b>\$770,767.34</b>	
	<b>Proposed Contract</b>		<b>\$848,607.45</b>	

A portion of this amendment amount is anticipated to be reimbursed to the City in the form of credits withheld from the Contractor. The final amount is contingent upon negotiations of a final summary change order with the construction contractor.

**Alternatives**

Alternative – Request the Contractor pay Kimley Horn directly for those fees incurred by the City for delays under the construction contract. This is not the preferred option as this is a material modification to both the engineering and construction contracts.

**Financial Impact**

Funding for this contract was budgeted for the Finished Water Storage Improvements Account. There are currently funds available in the account below:

Finished Water Storage		
Improvements	\$77,840.11	4100P761-732003-P0401

**SDBE Summary**

This is a contract amendment and was not reviewed for compliance with the Ordinance to Promote Equal Opportunities in City Contracting.